

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

HOTEL 1000, LLC, a Delaware limited liability
company,

Plaintiff,

vs.

MARKET PLACE CENTER, LTD., a
Washington corporation,

Defendant.

No.

COMPLAINT

JURY TRIAL DEMANDED

Plaintiff Hotel 1000, LLC ("Hotel 1000"), by and through the undersigned attorneys,
alleges for its Complaint against Market Place Center, Ltd. ("Market Place"), as follows:

PARTIES

1. Plaintiff Hotel 1000 is a Delaware limited liability company. Its principal place of
business is in Seattle, Washington. It owns the Hotel 1000 hotel located at 1000 First Avenue in
Seattle, Washington. It has satisfied all prerequisites to bringing suit.

2. Defendant Market Place is a Washington corporation. Its principal place of
business is in Seattle, Washington. On information and belief, Market Place owns the Inn at the
Market hotel, located at 86 Pine Street in Seattle, Washington.

COMPLAINT -- 1

No.

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1 to develop, use, advertise, and promote its trademark and associated goodwill. As a result, the
 2 HOTEL 1000 mark has become an integral and indispensable part of Hotel 1000's business.

3 8. On information and belief, the Citysearch and Yahoo! websites, located at
 4 www.citysearch.com and www.yahoo.com, respectively, provide search engines through which
 5 consumers can search for, among other things, websites offering goods and services. When a
 6 user inputs search terms, the Citysearch and Yahoo! search engines compare the terms used with
 7 their databases of websites and generate a list of sites matching those terms. Citysearch and
 8 Yahoo! also sell the opportunity to have advertisements appear in a user's search results. Those
 9 advertisements appear as "Sponsored Results."

10 9. On information and belief, Market Place purchases keywords from Citysearch and
 11 Yahoo!.

12 10. On further information and belief, Market Place has purchased Hotel 1000's
 13 "HOTEL 1000" registered trademark as one such keyword. Consequently, when a user inputs
 14 "Hotel 1000" into the Citysearch and Yahoo! search engines, the search engines return results
 15 that include links to the Inn at the Market as a part of their "Sponsored Results." A copy of these
 16 search results is attached hereto as Exhibit C.

17 11. Moreover, both search results suggest that the hyperlinks provided in connection
 18 with "Hotel 1000" will direct users to Hotel 1000's website, when the links actually direct users
 19 to the Inn at the Market's website. For example, a search for "Hotel 1000" in both search
 20 engines trigger "Sponsored Results" that state:

21 Hotel 1000

22 Official Site: Boutique Hotel in Pike Place Market Downtown Seattle

23 www.innatthemarket.com.

24 On the Citysearch site, clicking on the "Hotel 1000" and "www.innatthemarket.com" text directs
 25 users to Inn at the Market's website. On the Yahoo! site, the only available hyperlink is
 26 associated with the "Hotel 1000" text, which directs users to the Inn at the Market's website.

COMPLAINT -- 3

No.

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Obviously, the Inn at the Market's website is not Hotel 1000's "Official Site" (www.hotel1000Seattle.com), as the "Sponsored Results" wrongly suggest.

CAUSES OF ACTION

Claim 1 – Federal Trademark Infringement **(15 U.S.C. § 1114)**

12. Hotel 1000 re-states the allegations set forth above.

13. Hotel 1000 owns and has used its federally-registered HOTEL 1000 trademark in connection with the services described in its registration.

14. Market Place does not own any rights in HOTEL 1000.

15. Hotel 1000 has never consented to Market Place's use of its federally-registered trademark.

16. By nonetheless purchasing and using Hotel 1000's federally-registered trademark as a keyword with Citysearch and Yahoo! to trigger advertisements and links to the Inn at the Market, Market Place is likely to cause confusion, or to cause mistake, or to deceive consumers that are searching for Hotel 1000's website.

17. Market Place's use of the words "Hotel 1000" and "Official Site" in connection with links to the Inn at the Market's website also is likely to confuse consumers that are searching for Hotel 1000's website.

18. Market Place's use of Hotel 1000's federally-registered trademark in the advertisements described above is likely to divert customers away from Hotel 1000.

19. Market Place's use of Hotel 1000's federally-registered trademark in commerce on or in connection with Market Place's services, has caused and is likely to continue to cause confusion, mistake, and deception among consumers and the public as to the source, origin, sponsorship, affiliation, and/or quality of Market Place's services, thereby causing loss, damage, and injury to Hotel 1000 and to the purchasing public. Market Place knew, or in the exercise of reasonable care, should have known that its conduct was likely to mislead the public.

COMPLAINT -- 4

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20. On information and belief, Market Place's violations of Hotel 1000's federally-registered trademark has been knowing, deliberate, willful, intended to cause mistake and to deceive, and in disregard of Hotel 1000's rights.

21. As a direct and proximate result of Market Place's violations of Hotel 1000's federally-registered trademark, Hotel 1000 has suffered damages in an amount to be proven at trial. Pursuant to 15 U.S.C. § 1117, Hotel 1000 is further entitled to infringer's profits, exemplary damages, and attorney's fees and costs.

22. Hotel 1000 has no adequate remedy at law to redress the damage that Market Place's trademark infringement will continue to cause. Under 15 U.S.C. § 1116, it is entitled to an injunction enjoining Market Place's use of its trademark as well as confusingly similar trademarks.

Claim 2 – False Designation of Origin
(15 U.S.C. § 1125(a))

23. Hotel 1000 re-states the allegations set forth above.

24. Market Place's acts described above are likely to cause confusion, or to cause mistake, or to deceive consumers as to the affiliation, connection, or association of Hotel 1000 with Market Place or the Inn at the Market, or as to the origin, sponsorship, or approval of Market Place's goods, services, or commercial activities by Hotel 1000, and such acts are likely to confuse or mislead the public into believing that Hotel 1000 is the source or sponsor of Market Place's goods and services. Such likely confusion will cause Hotel 1000 to lose customers and business due to this likely consumer confusion intentionally or negligently caused by Market Place, thereby causing loss, damage, and injury to Hotel 1000 and the purchasing public. Market Place knew, or by the exercise of reasonable care should have known, that its conduct was likely to so mislead the public.

25. Because Market Place's advertisements are likely to confuse Hotel 1000's business and website with Market Place's illegitimate use of the HOTEL 1000 trademark, Hotel

COMPLAINT -- 5

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1 1000's customers and prospective customers are likely to visit the Inn at the Market website
2 when looking for Hotel 1000's website and services.

3 26. Market Place's acts described above constitute false designation of origin, false
4 advertising, and unfair competition pursuant to 15 U.S.C. § 1125(a).

5 27. Under 15 U.S.C. § 1117(a), Hotel 1000 is entitled to actual damages, exemplary
6 damages, and infringer's profits in an amount to be proven at trial.

7 28. Hotel 1000 has no adequate remedy at law to redress the damage that Market
8 Place's wrongful acts will continue to cause. Under 15 U.S.C. § 1116, it is entitled to an
9 injunction enjoining Market Place's use of its trademark as well as confusingly similar
10 trademarks.

11 **Claim 3 – Violation of the Washington Consumer Protection Act**
12 **(RCW 19.86)**

13 29. Hotel 1000 re-states the allegations set forth above.

14 30. Market Place's acts described above constitute unfair and deceptive acts, as those
15 words are used in RCW 19.86.020.

16 31. Market Place's unfair and deceptive acts occur in trade or commerce and have
17 caused injury to Hotel 1000 and its business.

18 32. Because Market Place continues to advertise, market, offer for sale, and sell hotel
19 services to the general public in connection with its misleading advertisements described above,
20 its unfair and deceptive acts affect the public interest.

21 33. Market Place's unfair and deceptive acts have damaged Hotel 1000 in an amount
22 to be proven at trial, including its costs of suit, reasonable attorney's fees, and exemplary
23 damages as authorized by RCW 19.86.090.

24 34. Hotel 1000 has no adequate remedy at law to redress the damage that Market
25 Place's wrongful acts will continue to cause. Therefore, it is entitled to an injunction enjoining
26 Market Place's use of its trademark as well as confusingly similar trademarks.

COMPLAINT -- 6

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Claim 4 – Common Law Unfair Competition

35. Hotel 1000 re-states the allegations set forth above.

36. In using Hotel 1000's trademark, Market Place has engaged and continues to engage in unfair competition in violation of Hotel 1000's common law rights, including by causing confusion, mistake, and deception among consumers and the public as to the source, origin, sponsorship, affiliation, and/or quality of Market Place's goods and/or services.

37. Market Place's use of Hotel 1000's trademark constitutes common law unfair competition. Market Place knew, or in the exercise of reasonable care, should have known that its conduct was likely to mislead the public.

38. Market Place engaged in the actions described above with the design and purpose of causing injury to Hotel 1000's business through improper means.

39. As a direct and proximate result of such unlawful actions, Hotel 1000's business has been, and continues to be, disrupted, and Hotel 1000 has suffered, and continues to suffer, damages in an amount to be proven at trial.

40. As a direct and proximate result of Market Place's conduct in violation of the common law, Market Place has been unjustly enriched in an amount to be proven at trial.

41. Hotel 1000 is entitled to damages in an amount to be proven at trial.

42. Hotel 1000 has no adequate remedy at law to redress the damage that Market Place's wrongful acts will continue to cause. Therefore, it is entitled to an injunction enjoining Market Place's use of its trademark as well as confusingly similar trademarks.

RELIEF REQUESTED

WHEREFORE, Hotel 1000, LLC, requests relief as follows:

1. For injunctive relief enjoining Market Place and its agents, servants, employees, and attorneys, and those persons in active concert or participation with any of them who receives actual notice of this injunction, from continuing to: (a) purchase Hotel 1000's HOTEL 1000 trademark or confusingly similar trademarks as a search engine keywords, including but not

COMPLAINT -- 7

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1 limited to in connection with "Sponsored Results" or other advertisements that contain Hotel
2 1000's trademark with hyperlink(s) to Inn at the Market's website; (b) infringe Hotel 1000's
3 trademark rights; or (c) engage in false and misleading advertising in a manner that infringes
4 Hotel 1000's rights.

5 2. For an award of damages suffered by Hotel 1000, plus any profits earned by
6 Market Place as a result of its trademark infringement, unfair competition, and false advertising,
7 and unfair and deceptive acts or practices in an amount to be proven at trial.

8 3. For an award of exemplary damages under 15 U.S.C. § 1117 and RCW 19.86.060.

9 4. For an award of attorney's fees and costs.

10 5. For such other relief as the Court deems just and proper.

11 **DEMAND FOR JURY TRIAL**

12 Hotel 1000 respectfully requests a trial by jury of all issues triable by a jury.

13 DATED this 20th day of April, 2010.

14 GRAHAM & DUNN PC

15
16 By /s/ Michael G. Atkins

17 Michael G. Atkins

18 WSBA# 26026

19 Email: matkins@grahamdunn.com

20 Attorneys for Plaintiff
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COMPLAINT -- 8

No.

m41939-1376956.doc

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Int. Cl.: 43

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 3,231,570

Registered Apr. 17, 2007

**SERVICE MARK
PRINCIPAL REGISTER**

HOTEL 1000

1000 FIRST AVE. PROPERTIES LLC (WASHINGTON LTD LIAB CO)
14410 BEL-RED ROAD
BELLEVUE, WA 98007

FOR: HOTEL SERVICES FOR PREFERRED CUSTOMERS; HOTEL, BAR AND RESTAURANT SERVICES; HOTELS; PROVIDING BANQUET AND SOCIAL FUNCTION FACILITIES FOR SPECIAL OCCASIONS; PROVIDING CONFERENCE ROOMS; PROVIDING TEMPORARY ACCOMMODATION; PROVISION OF CONFERENCE FACILITIES; PROVISION OF CONFERENCE, EXHIBITION AND MEETING FACILITIES; RENTAL OF ROOMS, IN CLASS 43 (U.S. CLS. 100 AND 101).

FIRST USE 6-26-2006; IN COMMERCE 6-26-2006.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "HOTEL", APART FROM THE MARK AS SHOWN.

SN 78-752,607, FILED 11-11-2005.

DAVID C. REIHNER, EXAMINING ATTORNEY

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

04/19/2010
 900159967

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	NUNC PRO TUNC ASSIGNMENT		
EFFECTIVE DATE:	04/11/2008		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
1000 First Ave. Properties LLC		04/16/2010	LIMITED LIABILITY COMPANY: WASHINGTON
RECEIVING PARTY DATA			
Name:	Hotel 1000 LLC		
Street Address:	1000 First Avenue		
City:	Seattle		
State/Country:	WASHINGTON		
Postal Code:	98104		
Entity Type:	LIMITED LIABILITY COMPANY: DELAWARE		
PROPERTY NUMBERS Total: 1			
Property Type	Number	Word Mark	
Registration Number:	3231570	HOTEL 1000	
CORRESPONDENCE DATA			
Fax Number:	(206)340-9599		
<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>			
Phone:	(206) 624-8300		
Email:	IP@grahamdunn.com		
Correspondent Name:	Michael G. Atkins, Graham & Dunn PC		
Address Line 1:	2801 Alaskan Way, Suite 300 - Pier 70		
Address Line 4:	Seattle, WASHINGTON 98121-1128		
ATTORNEY DOCKET NUMBER:	M33785		
NAME OF SUBMITTER:	Michael G. Atkins		
Signature:	/Michael G. Atkins/		

OP \$40.00 3231570

Date:

04/19/2010

Total Attachments: 2

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NUNC PRO TUNC ASSIGNMENT OF U.S. TRADEMARK RIGHTS

WHEREAS, 1000 First Ave. Properties, LLC ("Assignor"), a Washington limited liability company with its address at 14410 Bel-Red Road, Bellevue, Washington 98007, has adopted, used, is using, and has common law rights in, the mark that is the subject of this assignment, and is the owner of U.S. Registration No. 3,231,570 set forth in Exhibit 1 and incorporated herein by reference; and

WHEREAS, Hotel 1000 LLC ("Assignee"), a Delaware limited liability company with its address at 1000 First Avenue, Seattle Washington 98104, is desirous of acquiring said mark and registration, together with its common law rights and the goodwill associated therewith;

NOW, THEREFORE, for good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, Assignor does hereby assign nunc pro tunc unto Assignee, all rights, title and interest in and to the mark and the registration effective April 11, 2008, together with that portion of its business relating to the mark and the goodwill appurtenant thereto.

First Ave. Properties, LLC

By: 

Peter deLeuw

President of 1000 First Ave. Inc., Managing Member

Dated: April 16, 2010

SEATTLE, WA METRO >

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Search Near

Seattle, WA Metro - Seattle

Results for Seattle Hotel 1000

Displaying results: 1-3 of 3

Your Filters Sort by:

No Filters Selected

Locations

- ☐ Belltown
- ☐ North Beacon Hill
- ☐ Industrial District (East)
- ☐ Lake Union

more >

Categories

- ☐ Hotels & Motels
- ☐ Catering
- ☐ Luxury Hotels
- ☐ Restaurants

more >

Hotel 1000

Official Site: Boutique Hotel in Pike Place Market Downtown Seattle.
www.innathomarket.com

Expedias: Hotel Rooms

Save up to 50% on hotels at Expedia. No Expedia change or cancel fees.
www.Expedia.com

Hotel 1000

Boutique Hotels, Hotels & Motels, Luxury Hotels
 1000 First Ave, Seattle, WA (map)
 Neighborhood: Downtown

14 Reviews

Hotel 1000

Hotels & Motels
 1000 First Avenue, Seattle, WA (map)
 Neighborhood: Downtown

write a review

China First

Restaurants, Catering
 Mandarin, Hunan, Szechuan, vegetarian--no MSG.
 4237 University Way Ne, Seattle, WA (map)
 Neighborhood: University District

write a review

Advertisement

Microsoft

their SECRET SAUCE recipe.

SPONSORED RESULTS

YAHOO!

Web Images Video Local Shopping News More *

hotel 1000

Search

Options *

View Notes (1)

SearchScan - On

125,000,000 results for
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Show All

TripAdvisor

Expedia

AOL Travel

Virtualtourist.com

Local Business Sites

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[www.Expedia.com](#)[1000 Hotel Seattle](#)Stay at [Hotel 1000 Seattle](#)! Save up to 70% (800) 992-2694
[Hotel1000.ReservationCounter.com](#)

Sponsored Results

[Hotel 1000: Seattle's Premiere Luxury Hotel Destination](#)

Luxury hotel in Seattle. Fixtures include bathtubs that fill from the ceiling.

[www.hotel1000seattle.com](#) - [Cached](#)[12 Days ... Hotel 1000 ... Seattle's Premiere Luxury Destination](#)[Hotel 1000](#), Seattle's first true luxury boutique hotel. Centrally located downtown close to shopping, Seattle Center, Pioneer Square, Pike Place Market, ...[www.hotel1000seattle.com/12dayspackage.html](#) - [Cached](#)[Hotel 1000 \(Seattle, WA\) - Hotel Reviews - TripAdvisor](#)

★★★★★ (214 Reviews) - Seattle, WA 98104, WA 98104

Hotel 1000, Seattle: See 214 traveler reviews, 78 candid photos, and great deals for [Hotel 1000](#), ranked #1 of 125 hotels in Seattle and rated 4.5 of 5 at TripAdvisor.[tripadvisor.com/Hotel_Review-g60878-d613399-Reviews-Hotel_1000...-128k](#) - [Cached](#)[fab-u-lous - Review of Hotel 1000, Seattle, WA - TripAdvisor](#)1000 First Avenue, Seattle, WA 98104, - [Hotel 1000](#): fab-u-lous -

See traveler reviews, 78 candid photos, and great deals for Seattle, WA, at TripAdvisor.

[tripadvisor.com/ShowUserReviews-g60878-d613399-r46299932-Hotel_1000...-146k](#) - [Cached](#)[Hotel 1000 Hotel Seattle - hotel deals and reviews - venere.com](#)

★★★★★ (1 review) - 1000 First Avenue - WA 98104 Seattle

Great deals for [Hotel 1000](#) in Seattle. Read [hotel](#) reviews, find [hotel](#) [hotel 1000](#) on a map of Downtown, Seattle and book online.[www.venere.com/hotels/seattle/hotel-1000](#) - [Cached](#)

Sponsored Result

[Seattle WA Hotels](#)Hotel with free Internet & breakfast bar. Low Web rates. Stay Smart.
[www.HIExpress.com/Seattle](#)[Hotel 1000](#)Official Site: Boutique Hotel in Pike Place Market Downtown Seattle.
[www.innathemarket.com](#)[Silver Cloud Hotels - Seattle](#)Official Site. Four Seattle Locations. Best Rates Available Online.
[www.SilverCloud.com](#)[Hotel 1000 Seattle](#)No Cancel Fee At [Hotels.com](#). Book Now & Save On Seattle **Hotels**
[www.hotels.com](#)[Seattle Hotels at Hotwire®](#)4-star hotels at 2-star prices with low Hotwire Hot Rates.
[www.Hotwire.com/Seattle](#)[Save on Hotel 1000](#)Up to 70% Off [Hotel 1000](#). Compare Prices & Get the Best Deal.[Hotel-1000.Tripzen.com](#)[Hotels in Seattle WA](#)Save Money on a [Hotel](#) in Seattle! Low Rates on [Hotels](#) & Packages.
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